



Spring 2003 Housing Roundtables

May 19, 2003
Emeryville, California

10:00 a.m. - 12:00 p.m.

May 30, 2003
Los Angeles, California

The focus of the Spring 2003 housing roundtables was the DFEH Housing Mediation Program (HMP), recently established through the DFEH/HUD Partnership Initiative. The program's goals and objectives were introduced to potential program participants, including statewide housing advocates, fair housing councils/organizations, and human relations commissions who joined housing providers, rental associations, property owners and managers at both roundtables.

AGENDA

- I. Opening Remarks
- II. Introduction of the Housing Mediation Program (HMP)
- III. Presentation: HMP Process and Procedures
- IV. Open Discussion: Questions, Issues and Suggestions
- V. Closing Comments

I. OPENING REMARKS

Director **Dennis Hayashi** opened the proceedings by introducing **Chuck Hauptman**, Director of the HUD Region IX Office of Fair Housing and Equal Opportunity (FHEO), in San Francisco. Other introductions included HUD representatives **Jeff Jackson**, San Francisco Program Operations Branch Chief (Oakland meeting) and **David Quezada**, Los Angeles Program Center Director (Los Angeles meeting). DFEH introductions included: **Andrea Rosa**, DFEH Deputy Director, Legislation and Policy/Mediation Programs, **Dia S. Poole**, DFEH Deputy Director, Public Affairs, Housing District Administrators **Jaime Reyes**, **Susan Sheftel** (Oakland) and **Linda Harris** (Los Angeles), **Nora Baltierrez** Southern California Mediation Program Administrator (LA), and **Ron Whiten**, Northern California Mediation Program Administrator (Sacramento).

II. INTRODUCTION OF THE HOUSING MEDIATION PROGRAM

Deputy Director **Andrea Rosa** provided an overview on formation of the Program while Housing and Urban Development Director **Chuck Hauptman** expressed HUD's support of the HMP.

III. PRESENTATION: HMP PROCESS AND PROCEDURES

Ron Whiten and **Nora Baltierrez**, Administrators for the Northern and Southern California Mediation offices, gave a power point presentation regarding the HMP, followed by a report on the Department's outreach efforts from Deputy Director **Dia Poole**.

Overview of the Housing Mediation Program's Presentation

Mediation is a voluntary, confidential alternative form of dispute resolution used instead of the traditional investigative and litigation processes. Through mediation, a trained, impartial mediator helps the parties in a DFEH housing discrimination complaint to find a mutually acceptable resolution to their dispute.

The HMP is structured after the Facilitative Model. Using this method, the mediator assists the parties in reaching a mutually acceptable resolution without offering an opinion or evaluating the merits of the complaint. Both parties are notified in writing at the conclusion of the mediation. In the event that the disputing parties are unable to come to an agreement, the complaint will be referred back to DFEH for investigation.

The Housing Mediation Program objectives are designed to:

- ◆ Resolve complaints before DFEH undertakes a formal investigation
- ◆ Help reduce delays in case processing, meet statutory deadlines
- ◆ Increase the number of resolutions negotiated between parties
- ◆ Negotiate creative and collaborative settlement agreements.

Mediation guidelines and prohibitions are structured so mediators:

- ◆ May not force or impose settlements
- ◆ Shall not render a personal or professional opinion as to how DFEH or a court may decide the matter
- ◆ Must advise all parties of any conflicts of interest which may bar them or present an appearance of bias in mediating a dispute
- ◆ Shall not release confidential information to third parties, except when consistent with the Evidence Code of the State of California.

Mediation Process:

- ◆ Pre-mediation and opening mediation session
- ◆ Identification of stated and underlying issues
- ◆ Generating options and problem solving
- ◆ Finding common ground/agreement writing

Examples of Settlement Agreements:

- ◆ Offer to show, rent, sell, offer equal terms, next vacancy
- ◆ Rescind eviction or delay eviction date
- ◆ Rescind rent increase, reduce or waive rent
- ◆ Agree to maintain application records, correct discriminatory practice
- ◆ Advertise affirmatively, list vacancies with fair housing groups
- ◆ Use fair housing materials, attend fair housing law training
- ◆ Instruction/dissemination of non-discrimination policy
- ◆ Refund deposit monies, monetary settlement

Internet Resources

DFEH Housing Mediation Program
 Department of Fair Employment and Housing
 U.S. Department of Housing & Urban Development

www.dfehmp.ca.gov
www.dfeh.ca.gov
www.hud.gov

DFEH-HMP Contact Information

Northern California

Ron Whiten, Administrator
 DFEH Housing Mediation Program
 2014 "T" Street, Suite 210
 Sacramento, CA 95814
 Toll free: (888) 758-9911

Southern California

Nora Baltierrez, Administrator
 DFEH Housing Mediation Program
 611 West 6th St., Suite 2120
 Los Angeles, CA 90017
 Toll free: (866) 870-9456

IV. OPEN DISCUSSION - Questions, Issues and Suggestions

Q and A's Regarding the Program

1. **Has the Request For Proposal (RFP) been released yet, and if so how? What methods were used to get feedback for this from housing advocates ?**
 DFEH distributed as much as information as possible to all known sources which included those who had done housing mediation in the past and the mediation community.
2. **Who are the mediators and how were they selected ?**
 Sixteen mediators were selected through a RFP standard State of California bid process put out by the Department with a release date of April 1, 2003, and deadline for RFP response submittal of April 14, 2003. The applicants were ranked based on criteria that included mediation experience, training, and their knowledge of the state fair housing laws and regulations. The mediators have an average of 10+ years of mediation experience and a combined total of over 6500 hours of training.
3. **If the mediators are paid on an hourly basis, isn't that an incentive to drag out a mediation?**
 Mediations have time limitations (with exceptions) and are set at between 4-5 hours.
4. **What happens if the mediation doesn't work out because of the mediator. How does DFEH know when a mediator is not effective?**
 At the close of the session each participant is asked to voluntarily complete an evaluation form which is sent to the program administrators for review.
5. **Will the mediator have all the DFEH investigative information regarding the case?**
 No. The mediator only receives a copy of the complaint. It is up to each party to provide specific information regarding the issues in dispute.

6. What feedback have you gotten from other fair housing councils that do mediation and feel that they are now in competition with you for funds and clients?

"We don't see this as competition and believe we are all working towards the same objectives," commented an advocacy group member. "Our new clients are told about our program and what we offer and then given their options such as filing with DFEH, litigation etc."

7. Are tenants required to continue paying rent while awaiting mediation?

Yes. All clients are advised to continue paying rent during the DFEH process.

8. What happens if one side is not pleased at the way the mediation is going?

Since participation in the program is completely voluntary, the mediation can be stopped at any stage in the process by either party.

9. Can a case be reassigned to another mediator if both parties have made a "good faith" effort but feel an agreement could be reached with another facilitator?

Either party can request a different mediator. The problem, however, lies in a case's timelines. It may take several days to assign a different mediator to the case which has a time limit of 30 business days for completion, at which time it is returned to DFEH for investigation if the mediation is unsuccessful.

10. If mediation is unsuccessful, what information is attached to the file when it is sent back to DFEH for investigation?

The file will contain no confidential information regarding the mediation proceedings, only the fact that a mediation was held.

11. Looking at the flow chart, what qualifies a complaint for mediation and what is the weeding out process?

- ◆ For a case to qualify for mediation, a complaint must first be filed with DFEH.
- ◆ A mediation case will be closed in the Mediation Unit and returned to the Enforcement Division for investigation if the disputing parties can't mediate within the required time frame or if one side refuses to participate.

12. Regarding the balance of power, many groups have caucus rooms at the mediation location where attorneys can go if they need to call for a break and talk to their client.

Will your program allow a complainant to bring a fair housing council attorney, or other representative, to the mediation?

Yes, however, the role of anyone not a party to the mediation is to attend in a support capacity only.

Suggestions From Roundtable Participants

- ◆ Have a class or information available on resident/tenant responsibilities.
- ◆ Provide examples of settlement terms that benefit the tenant as well as examples that benefit the landlord/owner.
- ◆ Track cases to see if mediation is more successful than litigation.

- ◆ Collect and make available statewide data on the success rate of housing discrimination complaints from all representative sources.
- ◆ Promote mediation as an alternative method of dispute resolution by providing information and materials to housing providers.

V. CLOSING COMMENTS

Director Hayashi and Deputy Director Rosa thanked all participants for attending and encouraged them to contact DFEH with any further questions.